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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,602	11/29/2001	Thomas W. Lanzatella	1557.001US1	5150

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EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT PAPER NUMBER

2168

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/997,602

Applicant(s)

LANZATELLA ET AL.

Examiner *Haythim*

~~Sana Al Hashemi~~ *Alaubaidi*

Art Unit

2168

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

[Signature]
JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that the Examiner fails to address the limitation of "indicative of the state of the data object". The Examiner agrees with the Applicant and provided the citation for the argued limitation (please see Col 8, Lines 17-31); Applicant argues that Frey does not teach, "querying the second storage environment for a change to the signature". The Examiner agrees with the Applicant and would like to direct the Applicant's attention to (Col 8, Lines 04- 17) for a citation to the querying limitation',

The Applicant argues that Mukherjee does not teach the updating limitation of the independent Claims. The Examiner however respectfully disagrees. Mukherjee discloses updating the first data structure (Col 10, Lines 31-38 and Lines 57-59; see also Col 5, Lines 35-41). d. The Applicant argues with respect to Claim 4, that Frey does not teach wherein during generation one or more extents of the data object. The Examiner agrees with the applicant that the cited paragraph of Frey is not clear in regard to addressing the limitation of "generation one or more extents of the data object". However, Frey discloses the current limitation in Col 3, Lines 4-6., see also Col 5, lines 23-28. Applicant argues with respect to Claim 5, that Mukherjee's reference does not teach the limitation of detecting a mirroring of the data object. The Examiner however respectfully disagrees. Mukherjee discloses the current limitation, see Col 9, Lines 19-45., see also Col 16, Lines 21-34. f. Applicant argues with respect to Claim 17, that non of the cited references discloses the limitation of "each node includes metadata". The Examiner however disagrees. Mukherjee and Frey discloses metadata and nodes that does include metadata, please see (Mukherjee, Col 5, Lines 35-41., Col 7, Lines 6-7)', and also (Frey, Abstract', see also Figures 7-9 and corresponding text. g. Applicant argues with respect to Claim 25, that the citation of Mukherjee does not teach the limitations of the Claim 25. The Examiner however disagrees. Mukhrjee discloses different data or file formats (Co1 1, Lines 27-29., see also Col 7, Lines 63-67).